

Sent By: ATTORNEY AT LAW;

703 938 3817;

Dec-7-04 5:15PM;

Page 6

Application/Control Number: 10/064,478
Title: AVS Liquid Feed Terminal
Art Unit: 1724

Page 1 of 4
Applicant: POWELL, ET AL.
Attorney Docket No. 02-RIC-02

1 **IN THE UNITED STATES PATENT AND**
2 **TRADEMARK OFFICE**

3 In re the Application of
4 James R. Powell and Morris Reich
5 Attorney Docket No.: 02-RIC-02
6 Title: AVS Liquid Feed Terminal
7 Filed: July 18, 2004
8 For: Apparatus and Process of Using
9

Art Unit: 1724
Examiner: Robert J. Popovics
Application/Control Number: 10/064,478
Office Action: September 30, 2004
Reply Due: October 30, 2004

10 Assistant Commissioner for Patents Date of Reply: October 5, 2004
11 Washington, DC 20231

12 Sir:

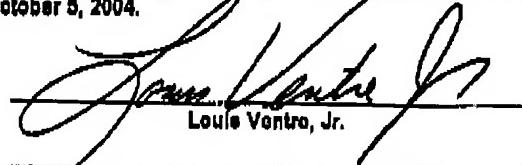
13 **Applicant's Reply to USPTO Restriction/Election Requirement**
14 **Election with Travers**

15 Applicant elects the apparatus claims, Claims 1-16, identified as Invention I by
16 the examiner. Applicant makes this election in anticipation of potential rejoinder of the
17 claims involving the process of using (Invention II) pursuant to MPEP § 821.04.

18 Applicant traverses the requirement to restrict because the requirement is in
19 error.

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I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office on October 5, 2004.



Louis Ventre, Jr.

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1 The stated reason for the restriction is that "the apparatus as claimed can be
2 used to practice another and materially different process, such as introduction of a liquid
3 or a gas at a submerged point." Such a use, however, would contradict limitation (c) of
4 claim 1, namely that "means for receiving or collecting slurry flowing from the endplate
5 such that such slurry remains separate from a liquid passing through the porous
6 segment of the dual-walled vertical tube."

7 The means for accomplishing this is explained in paragraph 35 of the
8 specification: "This can be accomplished by numerous means well known in the art. In
9 one such embodiment, the outer area of the endplate is made large enough so that
10 liquid spills or drains into an area having no communication, that is fluid contact or
11 mixing, with the slurry flowing through the perforations in the inner area of the endplate.
12 In another embodiment, a channel is added to the circumference of the endplate to
13 direct the liquid effluent flow to a particular area. In another embodiment, the outer area
14 of the endplate is shaped with channels to direct the effluent to a particular point at the
15 edge of the endplate."

16 For these embodiments, the endplate may not be submerged as the porous wall
17 at the bottom of the tube and adjacent to the endplate would permit the gas or liquid to
18 mix with the gas or liquid exiting the endplate, violating limitation (c).

19 Even when one particular embodiment is employed using a water tight pipe
20 surrounding the dual walled tube (see paragraph 36 of the specification and dependent
21 claim 4), additional limitations on the invention would be required to comply with

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- 1 limitation (c) because back flow through the endplate then through the porous wall
- 2 would have to be prevented. This is not the invention claimed and the stated
- 3 "*materially different process*" is not applicable to the claimed apparatus.
- 4 Applicant further traverses the restriction due to the fact that the process claims
- 5 (Claims 17-21) are linked and inseparable from the apparatus claim. The process claim
- 6 depends from or otherwise includes all the limitations of the independent product claim,
- 7 to wit, claim 1. Claim 17 comprises a step for using "*the vertical tube of claim 1.*"
- 8 According to MPEP § 821.04, ". . . if the product claim is subsequently found
- 9 allowable, withdrawn process claims which depend from or otherwise include all the
- 10 limitations of the allowable product claim will be rejoined." Thus, applicant respectfully
- 11 observes that the process claims should be rejoined if the product claim is allowed, and
- 12 so makes the request that they be rejoined in the event the product claim is allowed.
- 13 Applicant intends this reply to be a complete reply to the non-final Office Action
- 14 dated September 30, 2004.
- 15 The submitted claims are believed to be allowable based on the foregoing
- 16 distinctions set forth. Therefore, applicant requests that the claims remaining in the
- 17 case be allowed.

From: Louis Ventre, Jr. 703-938-3817 To: Duane Smith
Sent By: ATTORNEY AT LAW;

Date: Time: 5:25:26 PM

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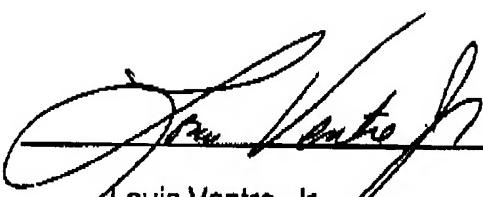
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Applicant: POWELL, ET AL.
Attorney Docket No. 02-RIC-02

1 Respectfully submitted,

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3 _____
4

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Facsimile Number, Preferred: 703-938-3817
Facsimile Number, Alternate: 413-812-1837

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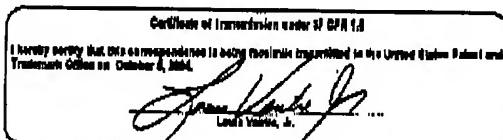
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Application/Control Number: 10/084,478
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Attorney Docket No. 02-HIC-02

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DELIVER TO: Robert James Popovich

MESSAGE:

RE: Attorney Docket No. 02-RJC-02
Application No. 10/084,478
Art Unit 1724

Following are —

1. Two page reply to Office Action dated November 26, 2004 re missing pages.
2. One page Office Action dated November 26, 2004.
3. Four page retransmission of October 8, 2004 reply to Sept. 30 Office Action.
4. One page fax receipt showing USPTO receipt on October 8 of applicant's October 8, 2004 reply to USPTO's Sept. 30 Office Action.

Sincerely

